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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,479	03/19/2004	Masahiro Kuroki	HGM-142-A	7260

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CARRIER BLACKMAN AND ASSOCIATES  
24101 NOVI ROAD  
SUITE 100  
NOVI, MI 48375

EXAMINER

WEBB, TIFFANY LOUISE

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/804,479

Applicant(s)

KUROKI ET AL.

Examiner

Tiffany L. Webb

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/19/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

2. Figures 25 and 26 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

4. Claim 1 is objected to because of the following informalities: the claim positively recites "a drive train" twice in the claim. The examiner suggests changing "a drive train" in line 9 to "the drive train." Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification and the drawings do not clarify or specifically discuss where the swing or rocking axes are and where these axes are defined to be located in relation to the frame and suspension of the three-wheeled vehicle.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the differential" in line 1. There is insufficient antecedent basis for this limitation in the claim. The examiner believes that this claim was to be dependent from claim 4, not claim 3. If the dependency is changed, this would correct the lack of antecedent basis.

### ***Double Patenting***

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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10. Claims 8-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 6, 7-8, and 11 of copending Application No. 10/667,950. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims claim a three-wheeled motor vehicle with rear wheel support structure for left and right wheels, the frame being pivotally supported on the rear wheel support structure for rocking movement, having left and right wishbone arms (also known as A-arms), having left and right reinforcing links and extend from the wishbone arms (suspension or A-arms), also having an intermediate barn extending between, and attached to upper portions of the reinforcing links. Further, both sets of claims claim bell cranks used in the suspension system and also having a shock absorber extending between and interconnecting upper ends of the bell cranks.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Duphily et al. (US 4,470,611). Regarding claim 8, Duphily et al. discloses having a reinforcing support structure, the reinforcing support structure (See Figure 2) comprising: a rear wheel support structure for supporting left and right rear wheels (102), and a main frame cage pivotally supported (108) on the rear wheel support structure for pivotal rocking movement thereon about a rocking axis; wherein the rear wheel support structure comprises: left and right wishbone arms which are pivotally connected (106); left and right reinforcing links (122) which are respectively attached to and extend upwardly from the respective left and right wishbone arms; and an intermediate bar extending between (C, See Figure 2), and operatively attached to upper portions of the left and right reinforcing links. Regarding claims 9, Duphily et al. discloses having a rear wheel support structure further comprising a pair of bell cranks (128) operatively attached to opposite ends of the intermediate bar, wherein the bell cranks connect the intermediate bar to the respective reinforcing links. Regarding claim 10, Duphily et al. discloses having a shock absorber (112) extending between and interconnecting upper ends of said bell cranks.

13. Claims 1-2, 5, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Takayanagi et al. (US 2004/0035628).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome

either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1 and 7, Takayanagi et al. discloses having a three-wheeled motor vehicle (10) comprising: a main frame cage provided with a swing axis (136 and 85), an engine (34) operatively attached to and supported by the main frame cage; right and left wishbone suspension arms (71 and 72) which are each respectively attached to the main frame cage for pivotal movement about the swing axis, a rear drive wheel operatively attached to each of the respective wishbone suspension arms (see paragraph [0058]), a transmission (35) for transmitting power output from the engine to a drive train; a drive train comprising a reduction gear (81) and right and left drive shafts (73 and 74) defining right and left output axes, respectively; wherein the main frame cage is made pivotally rockable about a rocking axis with respect to the wishbone suspension arms, wherein engine output is transferred to the right and left rear drive wheels via the transmission, the reduction gear, and the right and left drive shafts.

Regarding claim 2, Takayanagi et al. discloses having right and left output axes intersect with the rocking axis to define intersection points, and wherein said intersection points are displaced from one another on the rocking axis (see Figure 4).

Regarding claim 5, Takayanagi et al. discloses having the swing axis and the rocking axis coincide (Figure 9 and paragraph [0083]).

14. Claims 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Takayanagi et al. (US 2004/0119259).



The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 8, Takayanagi et al. ('259) discloses having a reinforcing support structure for a three-wheeled motor vehicle, the reinforcing support structure (see Figure 7) comprising: a rear wheel support structure for supporting left and right rear wheels (18 and 21), and a main frame cage (16) pivotally supported on the rear wheel support structure for pivotal rocking movement thereon about a rocking axis ; wherein the rear wheel support structure comprises: left and right wishbone arms which are pivotally connected to one another (71 and 72); left and right reinforcing links (88 and 89) which are respectively attached to and extend upwardly from the respective left and right wishbone arms; and an intermediate bar extending between (92), and operatively attached to upper portions of the left and right reinforcing links. Regarding claims 9, Takayanagi et al. ('259) discloses having a rear wheel support structure further comprising a pair of bell cranks (102) operatively attached to opposite ends of the intermediate bar, wherein the bell cranks connect the intermediate bar to the respective reinforcing links. Regarding claim 10, Takayanagi et al. ('259) discloses having a shock absorber (76) extending between and interconnecting upper ends of said bell cranks.

15. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Kuroki et al. (US 2004/0144591)

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1 and 7, Kuroki et al. discloses having a three-wheeled motor vehicle (10) comprising: a main frame cage provided with a swing axis (136 and 85), an engine (34) operatively attached to and supported by the main frame cage; right and left wishbone suspension arms (71 and 72) which are each respectively attached to the main frame cage for pivotal movement about the swing axis, a rear drive wheel operatively attached to each of the respective wishbone suspension arms (see paragraph [0058]), a transmission (35) for transmitting power output from the engine to a drive train; a drive train comprising a reduction gear (81) and right and left drive shafts (73 and 74) defining right and left output axes, respectively; wherein the main frame cage is made pivotally rockable about a rocking axis with respect to the wishbone suspension arms, wherein engine output is transferred to the right and left rear drive wheels via the transmission, the reduction gear, and the right and left drive shafts. Regarding claim 2, Kuroki et al. discloses having right and left output axes intersect with the rocking axis to define intersection points, and wherein said intersection points are

displaced from one another on the rocking axis (see Figure 4). Regarding claim 3, Kuroki et al. discloses having the rear drive wheels connected to the drive train via pairs of constant velocity (CV) joints (196, 198, 206, and 208) and the bending part of the CV joint is on the rocking axis. Regarding claim 4, Kuroki et al. discloses having a differential mechanism (172), which has a first output axis in front of the differential and the second axis is behind the differential mechanism (see Figure 13). Regarding claim 5, Kuroki et al. discloses having the swing axis and the rocking axis coincide (Figure 9 and paragraph [0083]). Regarding claim 6, Kuroki et al. discloses the differential including a differential pinion axis (see Figure 13), which intersects the rocking axis.

### ***Conclusion***

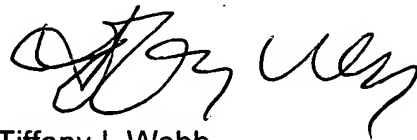
16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are all rocking-type suspension systems: Petersen (US 5,364,114), Boughers (US 4,003,443), Aregger (US 6,276,480), Smyers (US 4,546,997), and Parsons (US 3,598,385).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiffany L. Webb whose telephone number is 571-272-2797. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tiffany L Webb  
Examiner  
Art Unit 3616

tlw



PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600